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THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH

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GREAT BOWERY d/b/a TRUNK  
ARCHIVE,

Plaintiff,

v.

BEST LITTLE SITES d/b/a  
www.comicbookmovie.com; NATHAN  
BEST; MARK CASSIDY; JOSHUA  
WILDING; and DOES 1 through 10,

Defendants.

**ORDER GRANTING IN PART AND  
DENYING IN PART [52] MOTION TO  
DISMISS THE COUNTERCLAIM AND  
TO STRIKE CERTAIN AFFIRMATIVE  
DEFENSES AND [58] MOTION TO  
STRIKE CERTAIN AFFIRMATIVE  
DEFENSES**

Case No. 2:21-cv-00567-DBB-JCB

District Judge David Barlow

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Before the court is Plaintiff Great Bowery d/b/a Trunk Archive's Motion to Dismiss the Counterclaim and to Strike Certain Affirmative Defenses<sup>1</sup> and Motion to Strike Certain Affirmative Defenses.<sup>2</sup> The court considered the briefing, relevant law, and oral argument presented on October 13, 2022. For the reasons stated on the record,

1. The court GRANTS IN PART AND DENIES IN PART Plaintiff's Motion to Dismiss the Counterclaim and to Strike Certain Affirmative Defenses.<sup>3</sup>
  - a. The court DENIES the Motion to Dismiss the Counterclaim.
  - b. The court GRANTS the Motion to Strike Affirmative Defenses 3, 4, 15, and 22 as to the affirmative defense of laches.

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<sup>1</sup> ECF No. 52, filed July 14, 2022.

<sup>2</sup> ECF No. 58, filed July 29, 2022.

<sup>3</sup> ECF No. 52.

- c. The court DENIES the Motion to Strike Affirmative Defenses 2, 6–14, 16–21, and 22 as to the affirmative defense of waiver.
- 2. The court GRANTS IN PART AND DENIES IN PART Plaintiff’s Motion to Strike Certain Affirmative Defenses.<sup>4</sup>
  - a. The court GRANTS the Motion to Strike Affirmative Defenses 3, 4, 15, 22 as to the affirmative defense of laches, 24, and 27.
  - b. The court DENIES the Motion to Strike Affirmative Defenses 2, 5–14, 16–21, 22 as to the affirmative defense of waiver, 23, and 26.

Signed October 13, 2022.

BY THE COURT



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David Barlow  
United States District Judge

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<sup>4</sup> ECF No. 58.